

(AO)

# Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 128 of 1991

~~Text Annex~~

Date of Decision : 12-2-92

Mr. ML Sharma

Petitioner.

Mr. GV Subba Rao

Advocate for the  
petitioner (s)

Versus

Dy. Chief Mining Advisor, Rly Board, Ajni,  
Nagpur and another

Respondent.

Mr. NR Devaraj, SC for Rlys.

Advocate for the  
Respondent (s)

**CORAM :**

THE HON'BLE MR. T.Chandrasekhara Reddy, Member (Judl.)

THE HON'BLE MR. ---

1. Whether Reporters of local papers may be allowed to see the Judgement ? *N*
2. To be referred to the Reporter or not ? *✓* *by*
3. Whether their Lordships wish to see the fair copy of the Judgment ? *N*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *N*
5. Remarks of Vice Chairman on columns 1, 2, 4  
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench) *N*

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M(J)

JUDGMENT OF THE SINGLE MEMBER BENCH DELIVERED BY THE  
HON'BLE SHRI T.CHANDRASEKHARA REDDY, MEMBER(JUDL.)

This is an application filed under Section 19 of the Administrative Tribunals Act, 1985 by the applicant herein to quash the order dated 31.7.1990 passed by the Deputy Chief Mining Advisor, Railway Board, Nagpur and the appellate authority's letter dated 14.9.1990 rejecting the applicant's appeal and ~~order~~ to restore one set of privilege pass benefit which was stopped by the 1st respondent ~~for the year 1990.~~

The facts giving rise to this application in brief are as follows:-

The applicant herein is working as a Junior Sampling Supervisor. On 4.1.1990 one Mr. V.V.Ramana, Sample Khalasi, was attached to the applicant. On 5.1.1990 the applicant was at Bellampalli on duty. On 5.1.1990 the said Mr. V.V.Ramana reported for duty before the applicant with sample materials. According to the respondents, the applicant did not accept Mr. V.V.Ramana for duty. It is the case of the respondents that there is a loss of manpower to the employer and the act of the applicant in not accepting the said Mr. V.V.Ramana who reported for duty was unbecoming of a Railway servant and that the applicant thereby violated Rule 3 of the Railway Service (Conduct) Rules, 1966. For the said violation of Rule 3 of the

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD

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ORIGINAL APPLICATION NO.128 of 1991

DATE OF JUDGMENT: 12<sup>th</sup> FEBRUARY, 1992

BETWEEN:

1. Mr. M.L.Sharma .. Applicant

AND

1. The Deputy Chief Mining Advisor,  
Railway Board,  
Ajni,  
Nagpur.

2. The Chief Mining Advisor,  
Ministry of Railways,  
Railway Board,  
Dhanbad.

.. Respondents

COUNSEL FOR THE APPLICANT: Mr. G.V.Subba Rao

COUNSEL FOR THE RESPONDENTS: Mr. N.R.Devaraj,  
SC for Railways.

CORAM:

Hon'ble Shri T.Chandrasekhara Reddy, Member (Jud1.)

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punishment imposed on him by withholding one set of privilege pass for the year 1990 is liable to be set-aside. It is upto the disciplinary authority to come to an opinion whether an enquiry is necessary or not after applying its mind to all the facts and circumstances in a given case. It is also the discretion of the disciplinary authority whether to hold an enquiry or not when a minor penalty is to be imposed. If the disciplinary authority proposes to impose minor penalty on the applicant and if the applicant takes an objection that such a minor penalty cannot be imposed without holding summarily an enquiry, the disciplinary authority in writing has to indicate its reasons for not holding summary enquiry. But without giving any reasons, summary enquiry cannot be dispensed with as the same would be violative of principles of natural justice. So, as the summary enquiry has not been conducted in this case inspite of the objection by the applicant, the applicant is certainly prejudiced in his defence.

3. As already pointed out, the disciplinary authority and the appellate authority have passed orders withholding one set of privilege pass for the year 1990 without giving any reasons. In this context, the 1st respondent who is the disciplinary authority has passed the following order dated 31.7.1990:-

"Sub: Memorandum for imposing for minor penalties.

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Railway Service (Conduct) Rules, 1966, a major penalty charge sheet was issued as against the applicant. The applicant submitted his representation. The disciplinary authority considered the representation of the applicant and ordered to convert the major penalty charge sheet into a minor one. The applicant again submitted a representation protesting for issuing the said minor penalty charge sheet. The disciplinary authority considered the representation and ordered that as per the Railway Servants (Discipline & Appeal) Rules, with regard to minor penalty charge sheet, enquiry is not essential if the disciplinary authority is convinced. The disciplinary authority who is the 1st respondent passed the order dated 31.7.1990 withholding one set of privilege pass for the year 1990. The applicant carried the matter in appeal to the 2nd respondent. The 2nd respondent upheld the punishment imposed by the disciplinary authority. The said orders of the disciplinary authority and the appellate authority withholding one set of privilege pass for the year 1990 as already pointed out that are questioned in this OA.

2. It is the case of the applicant that he has taken an objection in his representation that without an enquiry with regard to minor penalty charge sheet that penalty cannot be imposed on him and it is violative of principles of natural justice and hence the said

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reasons were assigned in the said orders for inflicting the said punishment of withholding one set of privilege pass for the year 1990 either by the disciplinary authority or by the appellate authority, we find no other alternative except to set-aside the ~~orders~~ dated 31.7.90 and 14.9.1990 passed by the said ~~disciplinary~~ disciplinary authority and the appellate authority.

For the reasons mentioned above, we set-aside the impugned orders dated 31.7.1990 passed by the 1st respondent and the order dated 14.9.1990 passed by the 2nd respondent and allow the O.A. by directing the ~~the Appellate~~ respondents to restore one set-of privilege pass for the year 1990. In the circumstances of the case, we make no order as to costs.

*T. Chandrasekhar Reddy*  
(T. CHANDRASEKHARA REDDY)  
MEMBER (JUDL.)

Dated: 19 February 1992.

*8/3/92*  
Deputy Registrar (J)

To:

1. The Deputy Chief Mining Advisor, Railway Board, Ajni, Nagpur.
2. The Chief Mining Advisor, Min. of Railways, Railway Board, Dhanbad.
3. One copy to Mr.G.v.Subba Rao, Advocate, CAT.Hyd.
4. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.
5. One copy to Hon'ble Mr.T.Chandrasekhar Reddy, Member (J)CAT.Hyd.
6. Copy to All Reporters as per standard list of CAT.Hyd.
7. One copy to D.R.(J) CAT.Hyd-Bench.
8. One spare copy.

vsn

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Ref: This Office No. EP/JSS/MLS, dated  
29.6.1990.

I have decided that you are responsible in the above case and have passed the following orders:-

"One set of privilege pass for the year 1990 is stopped".

As already pointed out, the matter was carried in appeal to the 2nd respondent who is the appellate authority. The following order dated 14.9.1990 is passed by the appellate authority:-

"Your appeal was gone through by me and I have come to the conclusion that action taken by the competent authority is justified".

The order passed by the 1st respondent who is the disciplinary authority and the order passed by the 2nd respondent who is the appellate authority did not give reasons at all as already pointed out for giving the applicant the said punishment withholding one set of privilege pass for the year 1990. From the said orders, it is very difficult to understand what actually is the wrong committed by the applicant. So, as no

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CHECKED BY *✓* APPROVED BY *✓*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. V.C.  
THE HON'BLE MR. N. BALASUBRAMANIAN : M(A),  
AND  
THE HON'BLE MR. T. CHANDRASEKHAR REDDY :  
M(JUDL)  
AND  
THE HON'BLE MR. C. J. ROY : MEMBER(JUDL)

DATED: 12-2-1992

ORDER/JUDGMENT:

R.A/C.A/ M.A.N.

in

O.A.N. 128/91

T.A.No. (W.P.No. )

Admitted and interim directions  
issued.

Allowed

Disposed of with directions.

Dismissed

Dismissed as withdrawn

Dismissed for Default.

M.A. Ordered/ Rejected

No order as to costs.

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16/3/92

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